IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1588 OF 2005

Shri Sanjay Vishnu Mojar & Ors. ...Applicants

Versus

The State of Maharashtra & Ors. ...Respondents

.....

Mr.Dilip Bodake for Applicants.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondents 1 & 2.

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CORAM: A.M.KHANWILKAR, J.

MARCH 9, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. Even accepting the prosecution case as it is, disregarding argument of the Applicants that the present complaint has been filed against the Applicants as counterblast to the complaint filed by them against the complainant, in my opinion, prima facie, no offence is made out.

3. It is seen that the complainant was assaulted in the office premises in a cabin while the utterances were made. In that sense, the utterances were not made in public view. Besides there is nothing to suggest that the Applicants had knowledge about the Caste or Tribe of the complainant. All that the Applicants have allegedly said is that ‘you look like a South Indian person’. That is neither humiliating a person on the basis of the Caste or Tribe. Indeed, one sentence is ascribed to Sanjay/Applicant No.1 telling the Complainant that ‘you are of a low caste’. Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which is sought to be invoked, provides that it should be intentional insult or intimidation with intent to humiliate a member of the Scheduled Caste or Scheduled Tribe in any place within public view. As already mentioned, the incident had happened in a closed cabin and not in a public view. In that sense, no offence is made out within the meaning of Section 3(1)(x) of the Act. Accordingly, the Applicants are entitled for

being granted anticipatory bail in connection with the alleged offence. There is force in the argument that the present complaint has been filed against the present Applicants only as counterblast to the case reported by the Applicants against the Complainant.

4. Taking overall view of the matter, the Applicants are entitled for anticipatory bail in connection with the alleged offence on the following conditions:

(a) The Applicants are granted anticipatory bail in connection with Criminal Case No.966 of 2004 (F.I.R.No.1 of 2005) registered with Vashi Police Station, New Bombay, on executing personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand) each with two local sureties in the like amount.

(b) The Anticipatory Bail shall continue till the filing of the charge-sheet by the concerned Police Station in response to the direction given by the Magistrate on a private complaint under

Section 156(3) of the Criminal Procedure Code.

(c) The Applicants shall report to the concerned Investigating Officer as and when called upon.

(d) The Applicants shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

5. Application disposed of on the above terms.

A.M.KHANWILKAR, J.